

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to preinspection visits and application process for child care centers and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 109, “Child Care Centers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 234.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 234.6.

Purpose and Summary

These proposed amendments document the expectation of a preinspection visit prior to granting a new child care center permission to open. Preinspection visits occur in practice already. These amendments also clarify the expectation around Department receipt of the regulatory fee during application and when and where the fee is submitted. These proposed amendments better align rules to current practice.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

This amendment does not provide a specific waiver authority because families may request a waiver of these provisions in a specified situation under the Department’s general rule on exceptions at rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 3, 2019. Comments should be directed to:

Nancy Freudenberg
Iowa Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 109.2(1) as follows:

109.2(1) Application for license.

a. and *b.* No change.

c. When a center makes a sufficient application for an initial license, the center may operate for a period of up to 120 calendar days from the date of issuance of the form granting permission to open without a license, pending a final licensing decision. A center has made a sufficient application when it has had an on-site visit and has submitted the following to the department:

(1) to (4) No change.

~~(5) The regulatory fee as specified in subrule 109.2(7), and the fee is received by the department's division of fiscal management.~~

d. Applicants shall submit the regulatory fee as specified in subrule 109.2(7) to the department's division of fiscal management.

~~*e.*~~ *e.* Applicants shall be notified of approval or denial of initial applications within 120 days from the date the application is submitted.

(1) and (2) No change.

~~*e.*~~ *f.* The department shall not act on a licensing application for 12 months after an applicant's child care center license has been denied or revoked.

f. *g.* When the department has denied or revoked a license, the applicant or person shall be prohibited from involvement with child care unless the department specifically permits involvement through a record check decision.

ITEM 2. Amend paragraph **109.2(4)“f”** as follows:

f. The regulatory fee as specified in subrule 109.2(7) is not received by the department's division of fiscal management by within 60 calendar days from the due date indicated on the child care center licensing fee invoice.

ITEM 3. Amend subrule 109.2(7) as follows:

109.2(7) Regulatory fees. A fee based upon center capacity is due to the department ~~before the~~ at the time of issuance of the license in accordance with this subrule.

a. to *c.* No change.

d. *Payment.* The center shall return the child care center licensing fee invoice to the department with the licensing fee payment within ~~30~~ 60 calendar days from the date ~~of~~ on the ~~licensing consultant's or designee's signature on the~~ invoice. Payment may be in the form of cash, check, money order, or cashier's check. Regulatory fees are nonrefundable and nontransferable.

~~(1) Payment must be received before the department will issue a full or provisional license.~~

~~(2) Regulatory fees are nonrefundable and nontransferable.~~

ITEM 4. Amend rule 441—109.3(237A), introductory paragraph, as follows:

441—109.3(237A) Inspection and evaluation. The department shall conduct an unannounced on-site visit in order to make a licensing recommendation for all initial and renewal applications for licensure

and shall determine compliance with licensing standards imposed by licensing laws and these rules when a complaint is received.